

1 A Quarter. I have the a "Q" down there for
2 quarter.

3 Q Yes, sir. Yes, sir.

4 We're just having you read out what you
5 have written, just so the record is very clear, so
6 there is no question about handwriting later.

7 Dr. Stern, is it fair to say that no one
8 composer is entitled to monopolize the use of a
9 quarter note F sharp?

10 A Yes.

11 MR. MOVIT: Dr. Stern, we'd like to now mark
12 another exhibit.

13 Kim, that's what I told you is the new
14 exhibit.

15 MS. JACKSON: Okay.

16 MR. MOVIT: And this will be 45.

17 (Exhibit 45 was marked for
18 identification by the Reporter.)

19 BY MR. MOVIT:

20 Q Dr. Stern, you have never seen this
21 document before; correct?

22 A This looks like one of the charts from the
23 Defendants' Expert Witness Report.

24 Q Yeah, it's not in the report itself, but
25 it is similar to material in the report; that is

1 correct?

2 A All right. If this is different, then no,
3 I haven't seen it before.

4 Q Okay. Dr. Stern, can you please -- no,
5 strike that.

6 Dr. Stern, I'll represent that Figure 1
7 represents bars 9 and 10 of BRC Original, bars 10
8 and 11 of BRC Final, and bars 4 and 5 of Domino on
9 your transcription.

10 And my question is, Dr. Stern, do you
11 agree with the scale degrees, as set forth on
12 Figure 1 of Exhibit 45 for all three compositions?

13 A You're talking about bars 9 to 10 of BRC
14 Original, 10 to 11 BRC Final, 4 to 5 Domino; is that
15 correct?

16 Q That's correct. Those correspond to the
17 Figure 1 row on Exhibit 45.

18 So my question is if you agree with the
19 scale degrees set forth on Exhibit 45 for Figure 1?

20 A Yes.

21 Q Okay. Dr. Stern, do you agree that there
22 is an additional scale degree 1 in the pickup bar in
23 Figure 1 in both versions of Bright Red Chords, as
24 compared to the pickup bar in Figure 1 of Domino?

25 A Yes.

1 I do have more to add on that, but to
2 answer your question yes.

3 Q Okay. Okay. Dr. Stern, do you agree that
4 the additional scale degree 1 in the pickup bar of
5 both versions of Bright Red Chords in Figure 1
6 creates a sequence of scale degree 1, followed by
7 scale degree 1?

8 A Yes.

9 Q The pitch sequence 1 and 1 is not
10 contained in Figure 1 of Domino; correct?

11 A Correct.

12 Q So it's fair to say there are seven
13 pitches in the pickup bar in Figure 1 of Bright Red
14 Chords, but there are just six pitches in the pickup
15 bar in Figure 1 of Domino; is that correct, sir?

16 A Pitches --

17 Q I can ask it again --

18 A No, there is -- it depends how you are
19 defining pitches. You could say there is two
20 pitches in both. There is a B and a D, there is
21 only two pitches, and then you can say that
22 rhythmically there is seven notes in one, and six
23 notes in the other.

24 Q But, Dr. Stern, there is a sequence of
25 seven pitches in the pickup bar of Figure 1 in

1 Bright Red Chords; correct?

2 A My personal terminology I would prefer to
3 say seven notes, but maybe we're splitting hairs.

4 Pitch I tend to associate with like B C
5 sharp D, separate -- when you're talking about
6 pitch, that's where I'm thinking.

7 Q Okay. So it's fair to say there is a
8 sequence of seven notes in the pickup bar of Bright
9 Red Chords in Figure 1; correct?

10 A Correct.

11 Q And then it's fair to say that there is a
12 sequence of six notes in the pickup bar of Domino in
13 Figure 1; correct?

14 A Correct.

15 Q Dr. Stern, do you agree that there is a
16 sharp or raised scale degree 2 in the second bar in
17 Figure 1 of Bright Red Chords Final?

18 A Yes.

19 Q Dr. Stern, but there is no sharp or raised
20 scale degree 2 in the second bar of Figure 1 of
21 Domino; correct?

22 A Correct.

23 Q Okay. And there is one pitch in
24 the second bar of Figure 1 of BRC Original; correct?

25 A Correct.

1 Q And there is --

2 A I think there is a bit of a slide into it.

3 Q There is one note in the second bar of
4 Figure 1 of Bright Red Chords Original; right?

5 A Right.

6 Q And there is three notes in the second bar
7 of Figure 1 of Bright Red Chords Final; correct?

8 A Correct.

9 Q Okay. And there is four notes in
10 the second bar of Figure 1 of Domino; correct?

11 A Correct.

12 Q So Bright Red Chords and Domino have a
13 different number of notes in the second bar of
14 Figure 1; correct?

15 A Correct.

16 Q And also, Dr. Stern, the second bar of
17 Figure 1 of both versions of Bright Red Chords ends
18 with scale degree 3, but the second bar of Figure 1
19 of Domino ends with scale degree 5; correct?

20 A Correct.

21 Q Okay. So that's another difference;
22 correct?

23 A Yes.

24 Q Okay, Dr. Stern, just for the record, just
25 so there is no confusion over handwriting later --

1 A Yes.

2 Q -- could you please read, for measures 4
3 and 5 of Domino, can you please first read into the
4 record -- we'll do it measure by measure for
5 clarity.

6 First can you please read the scale
7 degrees for measure 4 of Domino into the record,
8 please.

9 A 6 1 6 1 6 1.

10 Q Okay. And could you please read the scale
11 degrees for measure 5 of Domino into the record.

12 A 3 2 3 5.

13 Q And next can you please read the rhythmic
14 values in measure 4 of Domino into the record,
15 please?

16 A Five 8th notes, quarter note, 8th note,
17 two 16ths, 8th note.

18 Q Oh, I just said measure 4 --

19 A Oh, I did it again.

20 Q We're doing it measure by measure. So if
21 you could please, just so the record is clear,
22 please read just the rhythmic values of measure 4
23 into the record, please.

24 A Yes. Five 8th notes and quarter note.

25 Q Thank you, sir. And can you now please

1 read into the record the rhythmic values of measure
2 5 of Domino.

3 A 8th note, two 16th notes, 8th note.

4 Q And just so, again, so there is no
5 confusion over handwriting later, can you please
6 read the notes in just measure 4 of Domino into the
7 record, letters, the letters, please.

8 A B D B D B D.

9 Q Now can please read the letters of the
10 notes in measure 5 of Domino into the record.

11 A F sharp E F sharp A.

12 Q Okay. Thank you. Okay.

13 Keeping on Figure -- keeping on Figure 1,
14 Dr. Stern, would you agree, sir, that the pickup bar
15 in both versions of Bright Red Chords in Figure 1
16 consists of seven 8th notes, but the pickup bar in
17 Figure 1 of Domino consists of five 8th notes
18 followed by a quarter note?

19 Would you agree with that?

20 A Yes.

21 Q And that's the difference between Bright
22 Red Chords and Domino; correct?

23 A I think it's a very minor difference that
24 is not really tremendously relevant to making it
25 into a different melody.

1 It doesn't make it into a different
2 melody. Because you have plenty of verses that
3 sometimes have quarter notes, and then when it
4 repeats the next verse you might have two 8th notes
5 in the same spot. It's commonplace.

6 Q My question was just whether there was a
7 difference or not.

8 A I believe --

9 Q And there is a difference; correct?

10 A Yes.

11 Q And, Dr. Stern, there are no quarter notes
12 in the pickup bar in Figure 1 in Domino; correct?

13 A Please repeat the question.

14 Q Sure, of course. Okay. Thank you,
15 Dr. Stern.

16 Dr. Stern, there are no quarter notes in
17 the pickup bar in the Figure 1 in Bright Red Chords;
18 correct?

19 A I'm sorry, I'm looking at Figure 1 --

20 Q Sure. Let me just ask the question again.

21 Dr. Stern, in Figure 1 of Bright Red
22 Chords there are no quarter notes in the pickup bar;
23 correct?

24 A Correct. There is the same pitch that has
25 the same duration in the same location.

1 Q Okay, Dr. Stern --

2 A In terms of two 8th notes having the same
3 duration and the same location. So there is a
4 parallel, but the way you're asking the question,
5 yes, you're correct.

6 Q Dr. Stern, looking at the second bar in
7 Figure 1 --

8 A Yes.

9 Q Strike that. Just one second, please.

10 Okay, Dr. Stern, looking at the second bar
11 in Figure 1 of BRC Final, do you agree that the
12 rhythmic durations of the three notes are two 16th
13 notes followed by an 8th?

14 A Yes.

15 Q Okay. Looking at the second bar in
16 Figure 1 of Domino, do you agree that the rhythmic
17 duration of the first note is an 8th, and the
18 rhythmic duration of the last note is a quarter;
19 correct? Strike that --

20 A No, no, it's wrong --

21 Q Strike that. The question is --

22 A Yeah.

23 Q Dr. Stern, would you agree that there is a
24 different rhythm in the second bar of Figure 1 in
25 Bright Red Chords Original than in the second bar of

1 Figure 1 of Domino?

2 A Yes.

3 Q Okay. And would you agree that there is a
4 different rhythm in the second bar of Figure 1 of
5 Bright Red Chords Final than there is in the second
6 bar of Figure 1 of Domino?

7 A Yes.

8 Q Okay. Dr. Stern, we're going to move on
9 to Figure 2. And Figure 2 we're going to refer to
10 as bars 11 and 12 of Bright Red Chords Original, bar
11 12 and 13 of Bright Red Chords Final and bars 6 and
12 7 of Domino. Okay?

13 A 11 to 12 BRC Original?

14 Q Yes.

15 A 12 to 13 BRC Final, 6 to 7 Domino?

16 Q That's correct.

17 A Okay, got it.

18 (A discussion was held off the
19 written record.)

20 THE WITNESS: It would have been helpful to
21 actually have had them there in the first place. It
22 would have made it easier.

23 BY MR. MOVIT:

24 Q Okay. That's fine, sir. We will get a
25 copy of that on the break.

1 MR. PEASE: Please don't write on anything.
2 Making it easier is exactly what you don't want to
3 be doing.

4 BY MR. MOVIT:

5 Q Yeah, Dr. Stern, I actually think it's a
6 great idea to write the bar numbers.

7 A Normally you would have that. That would
8 be a normal way to present such a chart.

9 Q In any event, let's move on.

10 A Sure.

11 Q Dr. Stern, I just want to know do you
12 agree that the scale degrees set forth for Figure 2
13 of Exhibit 45 for all three of the compositions
14 accurately reflect the content of Exhibit D -- I'm
15 sorry, of Exhibit 44, which was your Exhibit D?

16 (Reporter clarification.)

17 MR. MOVIT: Exhibit 44, is Dr. Stern's Exhibit
18 D to his report. My question is just, rephrased,
19 does Dr. Stern agree with the scale degrees set
20 forth on Figure 2 of Exhibit 45 for all three
21 compositions.

22 THE WITNESS: Yes.

23 BY MR. MOVIT:

24 Q Dr. Stern, just so the record is clear,
25 could you please read out the scale degrees on bar

1 11 of Bright Red Chords Original of Exhibit 44.

2 A I'm sorry, the notes or the scale degrees,
3 which did you want?

4 Q The scale degrees.

5 A Okay. 1 1 5 6 1 1.

6 Q And can you please read out the scale
7 degrees of bar 12 of Bright Red Chords Original.

8 A 6 5.

9 Q And can you please tell us the notes in
10 bar 11 of Bright Red Chords Original.

11 A D D A B D D.

12 Q And can you please tell us the notes on
13 bar 12 of Bright Red Chords Original.

14 A B A.

15 Q Can you please tell us the rhythmic values
16 in bar 11 of Bright Red Chords Original.

17 A All 8th notes.

18 Q And the rhythmic values, please, in bar 12
19 of Bright Red Chords Original.

20 A 8th followed by dotted quarter.

21 Q And now if you could please tell us, sir,
22 the scale degrees in bar 12 of Bright Red Chords
23 Final.

24 A 1 1 3 6 1 1.

25 Q Okay. And the scale degrees, please, on

1 bar 13 of Bright Red Chords Final.

2 A 6 5.

3 Q Okay. With respect to the notes in bar 12
4 of Bright Red Chords Final, Dr. Stern, should
5 the third note be an F sharp?

6 A Bright Red --

7 Q Bright Red Chords Final bar 12 should
8 the third --

9 A Yes, that should be F sharp --

10 THE REPORTER: I didn't get all the question.

11 MR. MOVIT: My question was should the third
12 note in bar 12 of Bright Red Chords Final be an F
13 sharp, and the witness agreed.

14 Q Dr. Stern, can you please make that
15 handwriting correction on Exhibit 44.

16 A Yes.

17 (Witness complies.)

18 Q Dr. Stern, can you please now read out the
19 notes in Bright Red Chords Final in measure 12.

20 A D D F sharp B D D.

21 Q Okay. And can you please read out the
22 notes in measure 13 of Bright Red Chords Final.

23 A B A.

24 Q All right. Dr. Stern in bar 6 of Domino,
25 can you please read out the scale degrees.

1 A 6 1 6 1 6 1.

2 Q Thank you.

3 And where there is a 6 above the 8th
4 rests, that just indicates it's measure 6; it's
5 not a scale degree; correct?

6 (Reporter clarification.)

7 BY MR. MOVIT:

8 Q Where there is a printed No. 6 --

9 A That's a bar number.

10 Q -- above the 8th rests, that just
11 indicates it's measure 6, that's not a scale degree;
12 correct?

13 A Correct.

14 Q Okay. And can you please read out the
15 scale degrees in measure 7 of Domino, please.

16 A 1 6 5.

17 Q Okay. Thank you. Okay.

18 If you could please read out the notes in
19 measure 6 of Domino.

20 A B D B D B D.

21 And the last note value should be a
22 quarter.

23 Q Right; right. So the rhythmic values in
24 measure 6 of Domino are five 8ths followed by a
25 quarter; correct?

1 A Correct. I am finding that my
2 concentration isn't what it would normally be. I am
3 convalescing, and these are very -- I know this is
4 kind of kindergarten-level stuff. So normally I
5 wouldn't make this kind of mistake.

6 Q I know it's an unusual process being
7 deposed. We just have to have a clear record. So
8 we are all going to try to get through that that
9 and --

10 A Uh-huh.

11 Q -- we want to make sure there are ample
12 breaks and all that, so . . .

13 (Reporter clarification.)

14 MR. MOVIT: I just said that the deposition is
15 an unusual process, and we'll be sure to take ample
16 breaks. That's all I said.

17 THE WITNESS: Okay.

18 BY MR. MOVIT:

19 Q Okay, Dr. Stern, I don't believe that you
20 have read out the rhythmic values in measure 7 of
21 Domino yet.

22 A Two 16ths followed by an 8th note.

23 Q I don't think you have read out the notes
24 in measure 7 either, so if you could please just do
25 that.

1 A D B A.

2 Q Okay, thank you. Okay.

3 Dr. Stern, would you agree that the pickup
4 bar of Figure 2 of Domino contains an oscillation
5 between 6 and 1?

6 A Yes. It's more like Figure 1. It's
7 not -- they are separate melodies, the second and
8 the fourth phrases are not the same in Domino as in
9 Bright Red Chords. But they are closely related to
10 the first and third phrases of Bright Red Chords.

11 So it's like comparing apples and oranges
12 in a sense. But it's valid to say that the second
13 and fourth are different, yes, in both cases.

14 Q Okay, Dr. Stern, my question was just
15 whether both the pickup bar -- strike that.

16 My question is just whether the pickup bar
17 of Figure 2 of Domino contained an oscillation
18 between 1 and 6? That was just my only question,
19 sir.

20 A Yes.

21 Q And the pickup bar -- so both the pickup
22 bar of measure -- sorry, the pickup bar of Figure 1
23 of Domino and the pickup bar of Figure 2 of Domino
24 both contain an oscillation between 1 and 6;
25 correct?

1 A Please repeat the question.

2 Q Sure. The pickup bars of both Figure 1
3 and Figure 2 for Domino contain an oscillation
4 between 1 and 6; correct?

5 A Correct.

6 Q And, in fact, Dr. Stern, all of the pickup
7 bars in Domino contain an oscillation between 1 and
8 6; correct, in both Figures 1, 2, 3 and 4; correct?

9 A Correct.

10 Q However, all of the pickup bars in
11 Figures 1 through --

12 A Actually, 3 and 4 -- you're talking about
13 the next phrases; right? You haven't actually
14 identified the bar numbers for those for me.

15 Q That's fair enough. We will come back to
16 that question --

17 A Yeah.

18 Q -- after we have done so.

19 Okay, there is no oscillation in Figure 2
20 of Bright Red Chords Original or Bright Red Chords
21 Final in the pickup bar; correct?

22 A Correct.

23 Q So that's the difference between the
24 pickup bar in Figure 2 of Domino and the pickup bar
25 in both versions of Bright Red Chords in Figure 2;

1 correct?

2 A Correct.

3 Q And, Dr. Stern, there is a scale degree 5
4 in the pickup bar of Figure 2 of Bright Red Chords
5 Original, but there is no scale degree 5 at all in
6 the pickup bar of Figure 2 of Domino; correct?

7 A On the pickup bar you're talking about?

8 Q Yeah, that was my question, sir. So
9 that's correct; right?

10 A Please repeat the question. I was looking
11 at --

12 Q Absolutely, of course.

13 A -- a different spot --

14 Q My question, Dr. -- I know we're long
15 distance here -- Dr. Stern, my question is just that
16 there is a scale degree 5 in the pickup bar of
17 Figure 2 of Bright Red Chords Original; however,
18 there is no scale degree 5 in the pickup bar of
19 Figure 2 of Domino; correct?

20 A Correct.

21 Q And in Bright Red Chords Final, there is
22 scale degree 3 in the pickup bar of Figure 2, but
23 there is no scale degree 3 in the pickup bar of
24 Figure 2 of Domino; correct?

25 A Correct.

1 Q And, Dr. Stern, there is a quarter rest
2 preceding the pickup in Figure 2 of both versions of
3 Bright Red Chords; correct?

4 A Did you say a quarter rest?

5 Q Yes, sir. Let me ask it again.

6 Dr. Stern, there is a quarter rest
7 preceding the pickup in Figure 2 of both versions of
8 Bright Red Chords; correct?

9 A Correct.

10 Q Okay. There is a quarter -- there is an
11 8th rest preceding the pickup in Figure 2 of Domino;
12 correct?

13 A Correct. It matches the Figure 1 pickup
14 bar. It is -- not the Figure 2 pickup bar, but it
15 is kind of a repetition of what we had earlier in
16 Figure 1.

17 So it's a different pattern being used
18 here in Domino than with regard to phrases 2 and 4.

19 Q Dr. Stern?

20 A Yes.

21 Q Okay. There are -- strike that.
22 Apologies.

23 Dr. Stern, there are six 8th notes in the
24 pickup bar in Figure 2 of both versions of Bright
25 Red Chords, but there are five 8th notes and one

1 quarter note in the pickup bar in Figure 2 of
2 Domino; correct?

3 A Correct.

4 Q And Dr. Stern, bar 2 of Figure 2 of Bright
5 Red Chords consists of two 8th notes, but bar 2 in
6 Figure 2 of Domino consists of two 16th notes
7 followed by an 8th note; correct?

8 A The two 8th notes --

9 Q I misspoke. I'm going to ask the question
10 again --

11 A Bright Red Chords --

12 THE REPORTER: One at a time, please.

13 MR. MOVIT: Sure. The witness answered. I
14 struck the question. I misspoke. I'm going to ask
15 the question again.

16 Q Okay. Bar 2 of Figure 2 of Bright Red
17 Chords Final consists of two 8th notes, but bar 2 in
18 Figure 2 of Domino consists of two 16th notes
19 followed by an 8th note; correct?

20 A Correct. It lands in the same place. I
21 think it's a variance.

22 Q And with respect to Bright Red Chords
23 Original, bar 2 of Figure 2 of Bright Red Chords
24 Original contains an 8th followed by a dotted
25 quarter, while bar 2 of Figure 2 of Domino consists

1 of two 16th notes followed by an 8th note; correct?

2 A Correct. I think some of these
3 differences are kind of incidental to the
4 performance. Like, you know, a good singer like
5 Will may hold the last note a little longer in one
6 case, a little shorter in another. I don't think
7 they are super significant here.

8 You know, the fact that BRC Original 12
9 has a dotted quarter, and BRC Final has two 8ths.
10 It's -- he could have held the note a little longer,
11 a little shorter, depending on the day. So they are
12 not always super significant, these differences.

13 MR. MOVIT: I would ask the court reporter to
14 please mark that last answer for use later.

15 Thank you.

16 Q Okay, Dr. Stern, I'd like you to look
17 simultaneously at bar 11 -- no, strike that. Strike
18 that.

19 I'm now going to ask you a question about
20 the pickup bar of Figure 2 of Bright Red Chords,
21 both versions, versus Bright Red Chords/Domino.

22 Dr. Stern, isn't it correct that the only
23 rhythmic similarity between the pickup bar in
24 Figure 2 of Bright Red Chords and the pickup bar of
25 Figure 2 of Domino is the presence of 8th notes on

1 beats 2 and 3; correct?

2 A Correct. It's more rhythmically like
3 Figure 1 than Figure 2, as I mentioned earlier, of
4 Bright Red Chords.

5 Q And with respect to the pickup bar of
6 Figure 2 of Bright Red Chords and Domino what occurs
7 on beats 1 and 4 is rhythmically different; correct?

8 A You're saying 1 and 4 are different in
9 Domino from Bright Red Chords?

10 Q Yes, for the pickup bar of Figure 2.

11 A Correct.

12 Q Is it fair to say that no one composer is
13 entitled to monopolize the use of 16th notes -- I am
14 sorry, strike that.

15 Is it fair to say that no composer is
16 entitled to monopolize the use of four 8th notes on
17 bars 2 and 3 of a measure -- I'm sorry, strike
18 that. Take it from the top.

19 Dr. Stern, is it fair to say that no one
20 composer is entitled to monopolize the use of 8th
21 notes on beats 2 and 3 of a measure?

22 A Yes, but I think the question is
23 far-fetched because it is so abstract. We're
24 dealing with specific shapes, rhythms, melodic
25 shapes, notes. Those are the things that matter,

1 not that there was some 8th notes here or 8th notes
2 there. That sort of becomes kind of meaningless to
3 talk so abstractly.

4 Q Okay. We're going to move on to Figure 3.
5 And we're going to define Figure 3 as measures 13
6 and 14 of BRC Original, measures 14 and 15 of BRC
7 Final, and measures 8 and 9 of Domino.

8 And to start off with, Dr. Stern, can you
9 please read out the scale degrees in measure 13 of
10 BRC Original.

11 A 6 1 6 1 6 1 1.

12 Q And can you please read out the notes in
13 measure 13 of BRC Original.

14 A B D B D B D D.

15 Q So that's not what you wrote there; right,
16 in measure 13 for the notes?

17 A I am not feeling my best today, and this
18 is really surprising to me. But I just read you the
19 correct notes.

20 Q Okay. If you could just please write in
21 the correct notes --

22 A Absolutely. Absolutely.

23 Q Okay. And just so the record is clear,
24 after you finish writing that in, sir, if you could
25 just please read out once again the notes in measure

1 13 of BRC Original.

2 A Sure.

3 B D B D B D D.

4 Q If you could please read into the record
5 the rhythmic values in measure 13 of Bright Red
6 Chords Original.

7 A All 8th notes.

8 Q Okay. Thank you, sir.

9 And for measure 14 of Bright Red Chords
10 Original can you please read the scale degree into
11 the record.

12 A Oh, for the Original?

13 Q Yes, for Bright Red Chords Original,
14 please, if you could read the scale degree of
15 measure 14 into the record.

16 A 6 1 6 1 6 1 1.

17 Q Now we're looking at measure 14 of BRC
18 Original, sir.

19 A 14?

20 Q Yes, sir.

21 A Scale degree 3.

22 Q Thank you. And what is the note that that
23 represents?

24 A F sharp.

25 Q Thank you.

1 And what is the rhythmic value of that
2 note?

3 A Quarter note.

4 Q Okay, thank you, sir.

5 Measure 14 of BRC Final, can you please
6 read the scale degrees into the record.

7 A 6 1 6 1 6 1 1.

8 Q Okay. And if you could please read the
9 notes of measure 14 of BRC Final into the record,
10 please.

11 A B D B D B D D.

12 Q And if you could please read into the
13 record the rhythmic values in measure 14 of BRC
14 Final.

15 A All 8th notes.

16 Q Thank you, sir.

17 Measure 15 of BRC Final, can you please
18 read the scale degrees into the record.

19 A 3 sharp 2 3.

20 Q And if you can please read the notes in
21 measure 15 of BRC Final into the record, please.

22 A F sharp E sharp F sharp.

23 Q Thank you, sir.

24 If you could please read the rhythmic
25 values into the record of measure 15 of BRC Final.

1 A Two 16ths, 8th note.

2 Q Thank you, sir.

3 Measure 8 of Domino, can you please read
4 the scale degrees into the record.

5 A 6 1 6 1 6 1.

6 Q And if you can please read the notes in
7 measure 8 of Domino into the record.

8 A B D B D B D.

9 Q Okay. If you could please read the
10 rhythmic values in measure 8 of Domino into the
11 record, please.

12 A Five 8th notes, one quarter note.

13 Q Thank you, sir.

14 (A discussion was held off the
15 written record.)

16 BY MR. MOVIT:

17 Q So, Dr. Stern, very quickly, can you
18 please just read the scale degrees, followed by the
19 notes, followed by the rhythmic value in measure 9
20 of Domino into the record, so we can break after
21 that.

22 A You want scale degrees?

23 Q First scale degrees please, sir, measure
24 9.

25 A 3 2 3 5.

1 Q Okay, the notes?

2 A F sharp E F sharp A.

3 Q And the rhythmic values?

4 A 8th, two 16ths, 8th.

5 Q Okay. Thank you. Off the record.

6 THE VIDEOGRAPHER: This concludes DVD No. 1.

7 We're now going off the record. The time is 2:52.

8 (A recess was taken from

9 2:52 p.m. to 3:14 p.m.)

10 THE VIDEOGRAPHER: We are back on the video

11 record. This is DVD No. 2. The time is 3:14.

12 BY MR. MOVIT:

13 Q Dr. Stern, I'd like you to please have out

14 at the same time still Exhibits 44 and 45. And my

15 question is just, Dr. Stern, with respect to the --

16 A What is 45?

17 MR. PEASE: 45 out --

18 BY MR. MOVIT:

19 Q The one pager.

20 A Oh, right. Thank you.

21 Q And my question is just, Dr. Stern,

22 whether you agree with the scale degrees set forth

23 in Figure 3 for the three compositions on

24 Exhibit 45?

25 A Okay, let me look. Yes.

1 Q Attempting to short circuit things a bit,
2 Dr. Stern, earlier today I asked you questions about
3 similarities and differences with respect to scale
4 degree, letter names and rhythmic duration for the
5 compositions for Figure 1; correct?

6 A Correct.

7 Q Dr. Stern, would you agree that all of
8 those similarities and differences regarding what
9 you testified about Figure 1 also equally pertain to
10 Figure 3?

11 A Yes.

12 Q Okay, thank you, sir.

13 Okay, we're going to move on to Figure 4
14 now. And Figure 4 is measures 15 and 16 of Bright
15 Red Chords Original, measures 16, 17 of Bright Red
16 Chords Final, and measures 10, 11 of Domino.

17 So to start off with -- and we're in the
18 home stretch here in terms of reading things out --
19 Dr. Stern, could you please read out the scale
20 degrees in measure 15 of Bright Red Chords Original.

21 A 1 3 6 6 6.

22 Q Okay. And that measures the pickup;
23 correct?

24 A Correct.

25 Q Dr. Stern, can you please read out the

1 notes in measure 15 of Bright Red Chords Original.

2 A D F sharp B B B.

3 Q Okay, thank you, sir.

4 And can you please read out the rhythmic
5 durations in measure 15 of Bright Red Chords
6 Original.

7 A Quarter note, 48th.

8 Q Bright Red Chords Final, measure 16,
9 that's the pickup; correct?

10 A Correct.

11 Q Can you please read out the scale degrees
12 in measure 16 of Bright Red Chords Final.

13 A It's all the same as the Original. They
14 are all same.

15 Q 1 3 6 6 6; correct?

16 A Right.

17 Q Can you please read out the notes in
18 measure 16 of Bright Red Chords Final.

19 A D F sharp B B B.

20 Q Okay, thank you, sir.

21 And can you please read out the rhythm
22 durations of measure 16 of Bright Red Chords Final?

23 A Quarter, four 8th notes.

24 Q Okay. Thank you, sir.

25 Measure 10 of Domino, that's the pickup;

1 correct?

2 A Correct.

3 Q Okay. Can you please read out the scale
4 degrees in measure 10 of Domino, please.

5 A 6 1 6 1 6 1.

6 Q Okay. And can you please read out the
7 notes in measure 10 of Domino, please.

8 A B D B D B D.

9 Q Okay, thank you, sir.

10 And can you please read out the rhythmic
11 values in the measure 10 of Domino.

12 A Five 8ths, quarter.

13 Q Okay, thank you, sir. Please turn the
14 page.

15 Measure 16 of Bright Red Chords Original,
16 can you please read out the scale degrees.

17 A 6 5.

18 Q Okay. And, sir, can you please read out
19 the notes in measure 16 of Bright Red Chords
20 Original.

21 A B A.

22 Q Okay. That's not what it says, though, in
23 what you hand wrote in in measure 16 --

24 A You can -- you'll get my corrected version
25 here.

1 Q Okay, so you have now corrected it?

2 A Yeah, I have been correcting it.

3 Q Okay. Have you made any other corrections
4 regarding what you have not yet testified, sir? I
5 just want to know what has been corrected because I
6 don't have it in front of me.

7 A Yeah, there is a number of them. I think
8 you just -- we'll have this sent to you, so you have
9 it? You need it read out?

10 Q Well, why don't we get through -- why
11 don't we get through the last, you know, this last,
12 figure, in terms of reading things out, and we are
13 on the home stretch here.

14 A Okay.

15 Q Can you please read out the rhythmic
16 durations in measure 16.

17 A Yes, it's 8th note, dotted quarter.

18 Q Okay, thank you, sir.

19 Can you please read out the scale degrees
20 in measure 17 of Bright Red Chords Final.

21 A 6 5 6 1.

22 Q Okay, thank you, sir.

23 And can you please read out the notes in
24 measure 17 of Bright Red Chords Final.

25 A B A B D.

1 Q Okay. And just so the record is clear,
2 that's a correction from what you wrote in earlier
3 today in this measure for the note; correct?

4 A Yes.

5 Q Okay, thank you, sir.

6 Can you please read out the rhythmic
7 durations for measure 17 of Bright Red Chords Final.

8 A Four 8th notes.

9 Q Thank you, sir.

10 Can you please read out the scale degrees
11 in measure 11 of Domino.

12 A 1 6 5.

13 Q Okay. And can you please read out the
14 notes in measure 11 of Domino.

15 A D B A.

16 Q And can you please read out the rhythmic
17 values in measure 11 of Domino.

18 A Two 16ths, 8th.

19 Q Okay, thank you, sir.

20 Dr. Stern, are there any corrections that
21 you made since your original writing on this
22 document earlier this afternoon regarding what you
23 have not yet testified?

24 A Not completely sure, but I did write in
25 the corrections to Bright Red Chords Original in 13